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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,030	. 08/31/2001	Richmond Muimo	002.00190	6001
35876	7590 11/16/2005		EXAMINER	
ROGALSKY & WEYAND, LLP P.O. BOX 44			NOLAN, PATRICK J	
LIVONIA, N			ART UNIT	PAPER NUMBER
•			1644	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	09/944,030	MUIMO ET AL.				
Office Action Summary	Examiner	Art Unit				
	Patrick J. Nolan	1644				
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D. - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period. - Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	OATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be time will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	I. lely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 29 A	Responsive to communication(s) filed on 29 August 2005.					
	s action is non-final.					
3) Since this application is in condition for allows	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under	Ex parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) <u>1-13 and 51</u> is/are pending in the application.						
4a) Of the above claim(s) 4,5,8-13 and 51 is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-3,6 and 7</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/	or election requirement.					
Application Papers						
9) The specification is objected to by the Examin	er.					
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
	, or the section of					
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) X Interview Summary					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Da	ate atent Application (PTO-152)				
 Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08 Paper No(s)/Mail Date 	6) Other:	and the second of the second o				

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1. Claims 1-13 and 51 are pending.

2. Claims 4-5 and 8-58 stand withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking

claim. Election was made without traverse in the reply filed on 9-28-04.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on

sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3 and 6-7 stand rejected under 35 U.S.C. 102 (b) as being anticipated by

Riemen et al. (21 on the IDS submitted 8-16-02), for reasons of record set forth in the Office

Action mailed 2-25-05.

Applicant arguments filed 8-29-05 have been fully considered but are not found

persuasive.

Applicant argues the abstract book was not published until April 27 of 1998, thereby

obviating the 102(b) rejection.

However, as stated in the previous Office action, abstract books are frequently publicly

available prior to the actual meeting, since they are commonly mailed to attendees to review

which poster presentation they wish to attend prior to going to the meeting.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the

subject matter which the applicant regards as his invention.

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5. Claims 1-3 and 6-7 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for reasons of record set forth in the Office Action mailed 2-25-05.

Applicant arguments filed 8-29-05 have been fully considered but have not been found persuasive.

Applicant argues that in view of the amendment the claims are definite.

However, the claims do not define what parameters need to be met to determine if the patient is responding to treatment or has cystic fibrosis. As such the claims remain indefinite.

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

- 7. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.
- 8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Nolan whose telephone number is 571-272-0847.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at 571-272-0841.

Patrick J. Nolan, Ph.D.

Primary Examiner, Group 1640

November 3, 2005